

By: Simpson

H.B. No. 2165

Substitute the following for H.B. No. 2165:

By: Herrero

C.S.H.B. No. 2165

A BILL TO BE ENTITLED

AN ACT

relating to repealing marihuana offenses; prohibiting the sale or distribution of marihuana to a minor; creating criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The following provisions are repealed:

(1) Article 13.22, Code of Criminal Procedure;

(2) Sections 481.002(26), 481.120, and 481.121, Health and Safety Code; and

(3) Sections 159.001(4) and 159.101(e), Tax Code.

SECTION 2. Article 14.06(d), Code of Criminal Procedure, is amended to read as follows:

(d) Subsection (c) applies only to a person charged with committing an offense under:

~~(1) [Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;~~

~~[(1-a)]~~ Section 481.1161, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(2) Section 28.03, Penal Code, if the offense is punishable under Subsection (b)(2) of that section;

(3) Section 28.08, Penal Code, if the offense is punishable under Subsection (b)(1) of that section;

(4) Section 31.03, Penal Code, if the offense is

1 punishable under Subsection (e)(2)(A) of that section;

2 (5) Section 31.04, Penal Code, if the offense is  
3 punishable under Subsection (e)(2) of that section;

4 (6) Section 38.114, Penal Code, if the offense is  
5 punishable as a Class B misdemeanor; or

6 (7) Section 521.457, Transportation Code.

7 SECTION 3. Article 15.27(h), Code of Criminal Procedure, is  
8 amended to read as follows:

9 (h) This article applies to any felony offense and the  
10 following misdemeanors:

11 (1) an offense under Section 20.02, 21.08, 22.01,  
12 22.05, 22.07, or 71.02, Penal Code;

13 (2) the unlawful use, sale, or possession of a  
14 controlled substance or [7] drug paraphernalia, [~~or marijuana,~~] as  
15 defined by Chapter 481, Health and Safety Code; or

16 (3) the unlawful possession of any of the weapons or  
17 devices listed in Sections 46.01(1)-(14) or (16), Penal Code, or a  
18 weapon listed as a prohibited weapon under Section 46.05, Penal  
19 Code.

20 SECTION 4. Section 4, Article 18.20, Code of Criminal  
21 Procedure, is amended to read as follows:

22 Sec. 4. OFFENSES FOR WHICH INTERCEPTIONS MAY BE  
23 AUTHORIZED. A judge of competent jurisdiction may issue an order  
24 authorizing interception of wire, oral, or electronic  
25 communications only if the prosecutor applying for the order shows  
26 probable cause to believe that the interception will provide  
27 evidence of the commission of:

- 1 (1) a felony under Section 19.02, 19.03, or 43.26,  
2 Penal Code;
- 3 (2) a felony under:
  - 4 (A) Chapter 481, Health and Safety Code [~~other~~  
5 ~~than felony possession of marihuana~~];
  - 6 (B) Section 485.032, Health and Safety Code; or
  - 7 (C) Chapter 483, Health and Safety Code;
- 8 (3) an offense under Section 20.03 or 20.04, Penal  
9 Code;
- 10 (4) an offense under Chapter 20A, Penal Code;
- 11 (5) an offense under Chapter 34, Penal Code, if the  
12 criminal activity giving rise to the proceeds involves the  
13 commission of an offense under Title 5, Penal Code, or an offense  
14 under federal law or the laws of another state containing elements  
15 that are substantially similar to the elements of an offense under  
16 Title 5;
- 17 (6) an offense under Section 38.11, Penal Code; or
- 18 (7) an attempt, conspiracy, or solicitation to commit  
19 an offense listed in this section.

20 SECTION 5. Section 15(a)(1), Article 42.12, Code of  
21 Criminal Procedure, is amended to read as follows:

- 22 (1) On conviction of a state jail felony under Section  
23 481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(3),  
24 [~~481.121(b)(3)~~] or 481.129(g)(1), Health and Safety Code, that is  
25 punished under Section 12.35(a), Penal Code, the judge shall  
26 suspend the imposition of the sentence and place the defendant on  
27 community supervision, unless the defendant has previously been

1 convicted of a felony, other than a felony punished under Section  
2 12.44(a), Penal Code, or unless the conviction resulted from an  
3 adjudication of the guilt of a defendant previously placed on  
4 deferred adjudication community supervision for the offense, in  
5 which event the judge may suspend the imposition of the sentence and  
6 place the defendant on community supervision or may order the  
7 sentence to be executed. The provisions of this subdivision  
8 requiring the judge to suspend the imposition of the sentence and  
9 place the defendant on community supervision do not apply to a  
10 defendant who:

11 (A) under Section 481.1151(b)(1), Health and  
12 Safety Code, possessed more than five abuse units of the controlled  
13 substance; or

14 (B) under Section 481.1161(b)(3), Health and  
15 Safety Code, possessed more than one pound, by aggregate weight,  
16 including adulterants or dilutants, of the controlled substance[+  
17 ~~or~~

18 [~~(C) under Section 481.121(b)(3), Health and~~  
19 ~~Safety Code, possessed more than one pound of marijuana].~~

20 SECTION 6. Section 15(d), Article 42.12, Code of Criminal  
21 Procedure, is amended to read as follows:

22 (d) A judge may impose as a condition of community  
23 supervision that a defendant submit at the beginning of the period  
24 of community supervision to a term of confinement in a state jail  
25 felony facility for a term of not less than 90 days or more than 180  
26 days, or a term of not less than 90 days or more than one year if the  
27 defendant is convicted of an offense punishable as a state jail

1 felony under Section 481.112, 481.1121, or 481.113, [~~or 481.120,~~  
2 Health and Safety Code. A judge may not require a defendant to  
3 submit to both the term of confinement authorized by this  
4 subsection and a term of confinement under Section 5 or 12 of this  
5 article. For the purposes of this subsection, a defendant  
6 previously has been convicted of a felony regardless of whether the  
7 sentence for the previous conviction was actually imposed or was  
8 probated and suspended.

9 SECTION 7. Section 37.006(a), Education Code, is amended to  
10 read as follows:

11 (a) A student shall be removed from class and placed in a  
12 disciplinary alternative education program as provided by Section  
13 37.008 if the student:

14 (1) engages in conduct involving a public school that  
15 contains the elements of the offense of false alarm or report under  
16 Section 42.06, Penal Code, or terroristic threat under Section  
17 22.07, Penal Code; or

18 (2) commits the following on or within 300 feet of  
19 school property, as measured from any point on the school's real  
20 property boundary line, or while attending a school-sponsored or  
21 school-related activity on or off of school property:

22 (A) engages in conduct punishable as a felony;

23 (B) engages in conduct that contains the elements  
24 of the offense of assault under Section 22.01(a)(1), Penal Code;

25 (C) sells, gives, or delivers to another person  
26 or possesses or uses or is under the influence of:

27 (i) [~~marihuana or~~] a controlled substance,

1 as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.  
2 Section 801 et seq.; or

3 (ii) a dangerous drug, as defined by  
4 Chapter 483, Health and Safety Code;

5 (D) sells, gives, or delivers to another person  
6 an alcoholic beverage, as defined by Section 1.04, Alcoholic  
7 Beverage Code, commits a serious act or offense while under the  
8 influence of alcohol, or possesses, uses, or is under the influence  
9 of an alcoholic beverage;

10 (E) engages in conduct that contains the elements  
11 of an offense relating to an abusable volatile chemical under  
12 Sections 485.031 through 485.034, Health and Safety Code; or

13 (F) engages in conduct that contains the elements  
14 of the offense of public lewdness under Section 21.07, Penal Code,  
15 or indecent exposure under Section 21.08, Penal Code.

16 SECTION 8. Section 37.007(b), Education Code, is amended to  
17 read as follows:

18 (b) A student may be expelled if the student:

19 (1) engages in conduct involving a public school that  
20 contains the elements of the offense of false alarm or report under  
21 Section 42.06, Penal Code, or terroristic threat under Section  
22 22.07, Penal Code;

23 (2) while on or within 300 feet of school property, as  
24 measured from any point on the school's real property boundary  
25 line, or while attending a school-sponsored or school-related  
26 activity on or off of school property:

27 (A) sells, gives, or delivers to another person

1 or possesses, uses, or is under the influence of any amount of:

2 (i) [~~marihuana or~~] a controlled substance,  
3 as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.  
4 Section 801 et seq.;

5 (ii) a dangerous drug, as defined by  
6 Chapter 483, Health and Safety Code; or

7 (iii) an alcoholic beverage, as defined by  
8 Section 1.04, Alcoholic Beverage Code;

9 (B) engages in conduct that contains the elements  
10 of an offense relating to an abusable volatile chemical under  
11 Sections 485.031 through 485.034, Health and Safety Code;

12 (C) engages in conduct that contains the elements  
13 of an offense under Section 22.01(a)(1), Penal Code, against a  
14 school district employee or a volunteer as defined by Section  
15 22.053; or

16 (D) engages in conduct that contains the elements  
17 of the offense of deadly conduct under Section 22.05, Penal Code;

18 (3) subject to Subsection (d), while within 300 feet  
19 of school property, as measured from any point on the school's real  
20 property boundary line:

21 (A) engages in conduct specified by Subsection  
22 (a); or

23 (B) possesses a firearm, as defined by 18 U.S.C.  
24 Section 921;

25 (4) engages in conduct that contains the elements of  
26 any offense listed in Subsection (a)(2)(A) or (C) or the offense of  
27 aggravated robbery under Section 29.03, Penal Code, against another

1 student, without regard to whether the conduct occurs on or off of  
2 school property or while attending a school-sponsored or  
3 school-related activity on or off of school property; or

4 (5) engages in conduct that contains the elements of  
5 the offense of breach of computer security under Section 33.02,  
6 Penal Code, if:

7 (A) the conduct involves accessing a computer,  
8 computer network, or computer system owned by or operated on behalf  
9 of a school district; and

10 (B) the student knowingly:

11 (i) alters, damages, or deletes school  
12 district property or information; or

13 (ii) commits a breach of any other  
14 computer, computer network, or computer system.

15 SECTION 9. Section 37.015(a), Education Code, is amended to  
16 read as follows:

17 (a) The principal of a public or private primary or  
18 secondary school, or a person designated by the principal under  
19 Subsection (d), shall notify any school district police department  
20 and the police department of the municipality in which the school is  
21 located or, if the school is not in a municipality, the sheriff of  
22 the county in which the school is located if the principal has  
23 reasonable grounds to believe that any of the following activities  
24 occur in school, on school property, or at a school-sponsored or  
25 school-related activity on or off school property, whether or not  
26 the activity is investigated by school security officers:

27 (1) conduct that may constitute an offense listed



1 under Section 508.149, Government Code;

2 (2) deadly conduct under Section 22.05, Penal Code;

3 (3) a terroristic threat under Section 22.07, Penal  
4 Code;

5 (4) the use, sale, or possession of a controlled  
6 substance or [7] drug paraphernalia [~~7 or marijuana~~] under Chapter  
7 481, Health and Safety Code;

8 (5) the possession of any of the weapons or devices  
9 listed under Sections 46.01(1)-(14) or Section 46.01(16), Penal  
10 Code;

11 (6) conduct that may constitute a criminal offense  
12 under Section 71.02, Penal Code; or

13 (7) conduct that may constitute a criminal offense for  
14 which a student may be expelled under Section 37.007(a), (d), or  
15 (e).

16 SECTION 10. Section 37.016, Education Code, is amended to  
17 read as follows:

18 Sec. 37.016. REPORT OF DRUG OFFENSES; LIABILITY. A  
19 teacher, school administrator, or school employee is not liable in  
20 civil damages for reporting to a school administrator or  
21 governmental authority, in the exercise of professional judgment  
22 within the scope of the teacher's, administrator's, or employee's  
23 duties, a student whom the teacher suspects of using, passing, or  
24 selling, on school property:

25 (1) [~~marijuana or~~] a controlled substance, as defined  
26 by Chapter 481, Health and Safety Code;

27 (2) a dangerous drug, as defined by Chapter 483,

1 Health and Safety Code;

2 (3) an abusable glue or aerosol paint, as defined by  
3 Chapter 485, Health and Safety Code, or a volatile chemical, as  
4 listed in Chapter 485 [~~484~~], Health and Safety Code, if the  
5 substance is used or sold for the purpose of inhaling its fumes or  
6 vapors; or

7 (4) an alcoholic beverage, as defined by Section 1.04,  
8 Alcoholic Beverage Code.

9 SECTION 11. Section 76.017(b), Government Code, is amended  
10 to read as follows:

11 (b) The program must:

12 (1) include automatic screening and evaluation of a  
13 person arrested for an offense, other than a Class C misdemeanor, in  
14 which an element of the offense is the use or possession of alcohol  
15 or the use, possession, or sale of a controlled substance [~~or~~  
16 ~~marihuana~~];

17 (2) include automatic screening and evaluation of a  
18 person arrested for an offense, other than a Class C misdemeanor, in  
19 which the use of alcohol or drugs is suspected to have significantly  
20 contributed to the offense for which the individual has been  
21 arrested;

22 (3) coordinate the evaluation and referral to  
23 treatment services; and

24 (4) make referrals for the appropriate treatment of a  
25 person determined to be in need of treatment, including referrals  
26 to a community corrections facility as defined by Section 509.001.

27 SECTION 12. Section 123.002, Government Code, is amended to

1 read as follows:

2           Sec. 123.002. AUTHORITY TO ESTABLISH PROGRAM. The  
3 commissioners court of a county or governing body of a municipality  
4 may establish the following types of drug court programs:

5           (1) drug courts for persons arrested for, charged  
6 with, or convicted of:

7                   (A) an offense in which an element of the offense  
8 is the use or possession of alcohol or the use, possession, or sale  
9 of a controlled substance or [~~7~~] a controlled substance analogue [~~7~~  
10 ~~or marijuana~~]; or

11                   (B) an offense in which the use of alcohol or a  
12 controlled substance is suspected to have significantly  
13 contributed to the commission of the offense and the offense did not  
14 involve:

15                           (i) carrying, possessing, or using a  
16 firearm or other dangerous weapon;

17                           (ii) the use of force against the person of  
18 another; or

19                           (iii) the death of or serious bodily injury  
20 to another;

21           (2) drug courts for juveniles detained for, taken into  
22 custody for, or adjudicated as having engaged in:

23                   (A) delinquent conduct, including habitual  
24 felony conduct, or conduct indicating a need for supervision in  
25 which an element of the conduct is the use or possession of alcohol  
26 or the use, possession, or sale of a controlled substance or [~~7~~] a  
27 controlled substance analogue [~~7~~ ~~or marijuana~~]; or

1 (B) delinquent conduct, including habitual  
2 felony conduct, or conduct indicating a need for supervision in  
3 which the use of alcohol or a controlled substance is suspected to  
4 have significantly contributed to the commission of the conduct and  
5 the conduct did not involve:

6 (i) carrying, possessing, or using a  
7 firearm or other dangerous weapon;

8 (ii) the use of force against the person of  
9 another; or

10 (iii) the death of or serious bodily injury  
11 to another;

12 (3) reentry drug courts for persons with a  
13 demonstrated history of using alcohol or a controlled substance who  
14 may benefit from a program designed to facilitate the person's  
15 transition and reintegration into the community on release from a  
16 state or local correctional facility;

17 (4) family dependency drug treatment courts for family  
18 members involved in a suit affecting the parent-child relationship  
19 in which a parent's use of alcohol or a controlled substance is a  
20 primary consideration in the outcome of the suit; or

21 (5) programs for other persons not precisely described  
22 by Subdivisions (1)-(4) who may benefit from a program that has the  
23 essential characteristics described by Section [123.001](#).

24 SECTION 13. Chapter 161, Health and Safety Code, is amended  
25 by adding Subchapter I to read as follows:

26 SUBCHAPTER I. SALE OR DISTRIBUTION OF MARIHUANA TO MINORS

27 Sec. 161.091. DEFINITIONS. In this subchapter:

1           (1) "Marihuana" means the plant Cannabis sativa L.,  
2 whether growing or not, the seeds of that plant, and every compound,  
3 manufacture, salt, derivative, mixture, or preparation of that  
4 plant or its seeds. The term does not include:

5                   (A) the resin extracted from a part of the plant  
6 or a compound, manufacture, salt, derivative, mixture, or  
7 preparation of the resin;

8                   (B) the mature stalks of the plant or fiber  
9 produced from the stalks;

10                   (C) oil or cake made from the seeds of the plant;

11                   (D) a compound, manufacture, salt, derivative,  
12 mixture, or preparation of the mature stalks, fiber, oil, or cake;  
13 or

14                   (E) the sterilized seeds of the plant that are  
15 incapable of beginning germination.

16           (2) "Minor" means a person younger than 18 years of  
17 age.

18           Sec. 161.092. SALE OR DISTRIBUTION OF MARIHUANA TO MINORS  
19 PROHIBITED; PROOF OF AGE REQUIRED. (a) A person commits an offense  
20 if the person, with criminal negligence:

21                   (1) sells, gives, or causes to be sold or given  
22 marihuana to a minor; or

23                   (2) sells, gives, or causes to be sold or given  
24 marihuana to another person who intends to deliver it to a minor.

25           (b) If an offense under this section occurs in connection  
26 with a sale by an employee of the owner of a store in which marihuana  
27 is sold at retail, the employee is criminally responsible for the

1 offense and is subject to prosecution.

2 (c) An offense under this section is a Class C misdemeanor.

3 (d) It is a defense to prosecution under Subsection (a)(1)  
4 that the person to whom the marihuana was sold or given presented to  
5 the defendant apparently valid proof of identification.

6 (e) A proof of identification satisfies the requirements of  
7 Subsection (d) if it contains a physical description and photograph  
8 consistent with the person's appearance, purports to establish that  
9 the person is 18 years of age or older, and was issued by a  
10 governmental agency. The proof of identification may include a  
11 driver's license issued by this state or another state, a passport,  
12 or an identification card issued by a state or the federal  
13 government.

14 (f) There is a presumption that the defendant was presented  
15 with an apparently valid proof of identification if the defendant  
16 shows that a transaction scan device, as defined by Section  
17 161.0825, used at the time the marihuana was sold or given,  
18 confirmed that the proof of identification was valid.

19 (g) It is an exception to the application of this section  
20 that the actor providing marihuana to the minor was the minor's  
21 parent or guardian, and the parent or guardian directly supervised  
22 the minor's possession or use of the marihuana.

23 Sec. 161.093. NOTIFICATION OF EMPLOYEES AND AGENTS. (a)  
24 Each retailer shall notify each individual employed by that  
25 retailer who is to be engaged in retail sales of marihuana that  
26 state law prohibits the sale or distribution of marihuana to any  
27 person who is younger than 18 years of age as provided by Section

1 161.092 and that a violation of that section is a Class C  
2 misdemeanor.

3 (b) The notice required by Subsection (a) must be provided  
4 within 72 hours of the date an individual begins to engage in retail  
5 sales of marihuana. The individual shall signify that the  
6 individual has received the notice required by Subsection (a) by  
7 signing a form stating that the law has been fully explained, that  
8 the individual understands the law, and that the individual, as a  
9 condition of employment, agrees to comply with the law.

10 (c) Each form signed by an individual under this section  
11 shall indicate the date of the signature and the current address of  
12 the individual. The retailer shall retain the form signed by each  
13 individual employed as a retail sales clerk until the 60th day after  
14 the date the individual has left the employer's employ.

15 (d) A retailer required by this section to notify employees  
16 commits an offense if the retailer fails, on demand of a peace  
17 officer or an agent of the comptroller, to provide the forms  
18 prescribed by this section. An offense under this section is a  
19 Class C misdemeanor.

20 (e) It is a defense to prosecution under Subsection (d) to  
21 show proof that the employee did complete, sign, and date the forms  
22 required by Subsections (b) and (c). Proof must be shown to the  
23 comptroller or an agent of the comptroller not later than the  
24 seventh day after the date of a demand under Subsection (d).

25 Sec. 161.094. VENDOR ASSISTED SALES REQUIRED; VENDING  
26 MACHINES. (a) Except as provided by Subsection (b), a retailer or  
27 other person may not:

1           (1) offer marihuana for sale in a manner that permits a  
2 customer direct access to the marihuana; or

3           (2) install or maintain a vending machine containing  
4 marihuana.

5           (b) Subsection (a) does not apply to a facility or business  
6 that is not open to minors at any time.

7           (c) A person commits an offense if the person violates  
8 Subsection (a). An offense under this subsection is a Class C  
9 misdemeanor.

10          Sec. 161.095. DISTRIBUTION OF MARIHUANA. (a) A person may  
11 not distribute to a minor:

12           (1) a free sample of marihuana; or

13           (2) a coupon or other item that the recipient may use  
14 to receive free or discounted marihuana or a sample of marihuana.

15           (b) A person may not accept or redeem, offer to accept or  
16 redeem, or hire a person to accept or redeem a coupon or other item  
17 that the recipient may use to receive free or discounted marihuana  
18 or a sample of marihuana if the recipient is a minor.

19           (c) A person commits an offense if the person violates this  
20 section. An offense under this subsection is a Class C misdemeanor.

21          Sec. 161.096. ENFORCEMENT. (a) The comptroller shall  
22 enforce this subchapter in partnership with local law enforcement  
23 agencies.

24           (b) The comptroller may make block grants to counties and  
25 municipalities to be used by local law enforcement agencies to  
26 enforce this subchapter in a manner that can reasonably be expected  
27 to reduce the extent to which marihuana is sold or distributed to



1 minors. The comptroller shall rely, to the fullest extent  
2 possible, on local law enforcement agencies to enforce this  
3 subchapter.

4 (c) To facilitate the effective administration and  
5 enforcement of this subchapter, the comptroller may enter into  
6 interagency contracts with other state agencies, and those agencies  
7 may assist the comptroller in the administration and enforcement of  
8 this subchapter.

9 (d) The use of a minor to act as a minor decoy to test  
10 compliance with this subchapter shall be conducted in a fashion  
11 that promotes fairness. A person may be enlisted by the comptroller  
12 or a local law enforcement agency to act as a decoy only if the  
13 following requirements are met:

14 (1) written parental consent is obtained for the use  
15 of a minor to act as a decoy to test compliance with this  
16 subchapter;

17 (2) at the time of the inspection, the decoy is younger  
18 than 17 years of age;

19 (3) the decoy has an appearance that would cause a  
20 reasonably prudent seller of marihuana to request identification  
21 and proof of age;

22 (4) the decoy carries either the minor's own  
23 identification showing the minor's correct date of birth or carries  
24 no identification, and a decoy who carries identification presents  
25 it on request to any seller of marihuana; and

26 (5) the decoy answers truthfully any questions about  
27 the minor's age.

1       Sec. 161.097. REPORTS OF VIOLATION. A local or state law  
2 enforcement agency or other governmental unit shall notify the  
3 comptroller, on the 10th day of each month, or the first working day  
4 after that date, of any violation of this subchapter that occurred  
5 in the preceding month that the agency or unit detects,  
6 investigates, or prosecutes.

7       SECTION 14. Sections 481.002(17) and (25), Health and  
8 Safety Code, are amended to read as follows:

9           (17) "Drug paraphernalia" means equipment, a product,  
10 or material that is used or intended for use in planting,  
11 propagating, cultivating, growing, harvesting, manufacturing,  
12 compounding, converting, producing, processing, preparing,  
13 testing, analyzing, packaging, repackaging, storing, containing,  
14 or concealing a controlled substance in violation of this chapter  
15 or in injecting, ingesting, inhaling, or otherwise introducing into  
16 the human body a controlled substance in violation of this chapter.  
17 The term includes:

18           (A) a kit used or intended for use in planting,  
19 propagating, cultivating, growing, or harvesting a species of plant  
20 that is a controlled substance or from which a controlled substance  
21 may be derived;

22           (B) a material, compound, mixture, preparation,  
23 or kit used or intended for use in manufacturing, compounding,  
24 converting, producing, processing, or preparing a controlled  
25 substance;

26           (C) an isomerization device used or intended for  
27 use in increasing the potency of a species of plant that is a

1 controlled substance;

2 (D) testing equipment used or intended for use in  
3 identifying or in analyzing the strength, effectiveness, or purity  
4 of a controlled substance;

5 (E) a scale or balance used or intended for use in  
6 weighing or measuring a controlled substance;

7 (F) a dilutant or adulterant, such as quinine  
8 hydrochloride, mannitol, inositol, nicotinamide, dextrose,  
9 lactose, or absorbent, blotter-type material, that is used or  
10 intended to be used to increase the amount or weight of or to  
11 transfer a controlled substance regardless of whether the dilutant  
12 or adulterant diminishes the efficacy of the controlled substance;

13 ~~(G) [a separation gin or sifter used or intended~~  
14 ~~for use in removing twigs and seeds from or in otherwise cleaning or~~  
15 ~~refining marijuana;~~

16 [~~(H)~~] a blender, bowl, container, spoon, or  
17 mixing device used or intended for use in compounding a controlled  
18 substance;

19 (H) [~~(I)~~] a capsule, balloon, envelope, or other  
20 container used or intended for use in packaging small quantities of  
21 a controlled substance;

22 (I) [~~(J)~~] a container or other object used or  
23 intended for use in storing or concealing a controlled substance;

24 (J) [~~(K)~~] a hypodermic syringe, needle, or other  
25 object used or intended for use in parenterally injecting a  
26 controlled substance into the human body; and

27 (K) [~~(L)~~] an object used or intended for use in

1 ingesting, inhaling, or otherwise introducing [~~marihuana,~~  
2 cocaine, hashish, or hashish oil into the human body, including:

3 (i) a metal, wooden, acrylic, glass, stone,  
4 plastic, or ceramic pipe with or without a screen, permanent  
5 screen, hashish head, or punctured metal bowl;

6 (ii) a water pipe;

7 (iii) a carburetion tube or device;

8 (iv) a smoking or carburetion mask;

9 (v) a chamber pipe;

10 (vi) a carburetor pipe;

11 (vii) an electric pipe;

12 (viii) an air-driven pipe;

13 (ix) a chillum;

14 (x) a bong; or

15 (xi) an ice pipe or chiller.

16 (25) "Manufacture" means the production, preparation,  
17 propagation, compounding, conversion, or processing of a  
18 controlled substance [~~other than marihuana~~], directly or  
19 indirectly by extraction from substances of natural origin,  
20 independently by means of chemical synthesis, or by a combination  
21 of extraction and chemical synthesis, and includes the packaging or  
22 repackaging of the substance or labeling or relabeling of its  
23 container. However, the term does not include the preparation,  
24 compounding, packaging, or labeling of a controlled substance:

25 (A) by a practitioner as an incident to the  
26 practitioner's administering or dispensing a controlled substance  
27 in the course of professional practice; or

1 (B) by a practitioner, or by an authorized agent  
2 under the supervision of the practitioner, for or as an incident to  
3 research, teaching, or chemical analysis and not for delivery.

4 SECTION 15. Section 481.111(c), Health and Safety Code, is  
5 amended to read as follows:

6 (c) A person does not violate Section 481.113, 481.116,  
7 481.1161, [~~481.121~~], or 481.125 if the person possesses or delivers  
8 tetrahydrocannabinols or their derivatives, or drug paraphernalia  
9 to be used to introduce tetrahydrocannabinols or their derivatives  
10 into the human body, for use in a federally approved therapeutic  
11 research program.

12 SECTION 16. The heading to Section 481.122, Health and  
13 Safety Code, is amended to read as follows:

14 Sec. 481.122. OFFENSE: DELIVERY OF CONTROLLED SUBSTANCE [~~OR~~  
15 ~~MARIHUANA~~] TO CHILD.

16 SECTION 17. Sections 481.122(a) and (b), Health and Safety  
17 Code, are amended to read as follows:

18 (a) A person commits an offense if the person knowingly  
19 delivers a controlled substance listed in Penalty Group 1, 1-A, 2,  
20 or 3 [~~or knowingly delivers marihuana~~] and the person delivers the  
21 controlled substance [~~or marihuana~~] to a person:

22 (1) who is a child;

23 (2) who is enrolled in a public or private primary or  
24 secondary school; or

25 (3) who the actor knows or believes intends to deliver  
26 the controlled substance [~~or marihuana~~] to a person described by  
27 Subdivision (1) or (2).

1 (b) It is an affirmative defense to prosecution under this  
2 section that[+]

3 [~~(1)~~] the actor was a child when the offense was  
4 committed[~~+~~or

5 [~~(2)~~ the actor+

6 [~~(A) was younger than 21 years of age when the~~  
7 ~~offense was committed,~~

8 [~~(B) delivered only marihuana in an amount equal~~  
9 ~~to or less than one-fourth ounce; and~~

10 [~~(C) did not receive remuneration for the~~  
11 ~~delivery].~~

12 SECTION 18. Section 481.126, Health and Safety Code, is  
13 amended to read as follows:

14 Sec. 481.126. OFFENSE: ILLEGAL BARTER, EXPENDITURE, OR  
15 INVESTMENT. (a) A person commits an offense if the person:

16 (1) barter property or expends funds the person knows  
17 are derived from the commission of an offense under this chapter  
18 punishable by imprisonment in the Texas Department of Criminal  
19 Justice for life; or

20 (2) [~~barter property or expends funds the person~~  
21 ~~knows are derived from the commission of an offense under Section~~  
22 ~~481.121(a) that is punishable under Section 481.121(b)(5),~~

23 [~~(3)~~] barter property or finances or invests funds  
24 the person knows or believes are intended to further the commission  
25 of an offense for which the punishment is described by Subdivision  
26 (1) [~~+~~or

27 [~~(4) barter property or finances or invests funds the~~

1 ~~person knows or believes are intended to further the commission of~~  
2 ~~an offense under Section 481.121(a) that is punishable under~~  
3 ~~Section 481.121(b)(5)].~~

4 (b) An offense under Subsection (a) [~~(a)(1) or (3)~~] is a  
5 felony of the first degree. [~~An offense under Subsection (a)(2) or~~  
6 ~~(4) is a felony of the second degree.~~]

7 SECTION 19. Section 481.133(c), Health and Safety Code, is  
8 amended to read as follows:

9 (c) In this section, "drug test" means a lawfully  
10 administered test designed to detect the presence of a controlled  
11 substance [~~or marijuana~~].

12 SECTION 20. Sections 481.134(b), (c), (d), (e), and (f),  
13 Health and Safety Code, are amended to read as follows:

14 (b) An offense otherwise punishable as a state jail felony  
15 under Section 481.112, 481.113, or 481.114 [~~, or 481.120~~] is  
16 punishable as a felony of the third degree, and an offense otherwise  
17 punishable as a felony of the second degree under any of those  
18 sections is punishable as a felony of the first degree, if it is  
19 shown at the punishment phase of the trial of the offense that the  
20 offense was committed:

21 (1) in, on, or within 1,000 feet of premises owned,  
22 rented, or leased by an institution of higher learning, the  
23 premises of a public or private youth center, or a playground; or

24 (2) in, on, or within 300 feet of the premises of a  
25 public swimming pool or video arcade facility.

26 (c) The minimum term of confinement or imprisonment for an  
27 offense otherwise punishable under Section 481.112(c), (d), (e), or

1 (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e),  
2 481.115(c)-(f), 481.116(c), (d), or (e), 481.1161(b)(4), (5), or  
3 (6), 481.117(c), (d), or (e), or 481.118(c), (d), or (e) [~~7~~  
4 ~~481.120(b)(4), (5), or (6), or 481.121(b)(4), (5), or (6)] is  
5 increased by five years and the maximum fine for the offense is  
6 doubled if it is shown on the trial of the offense that the offense  
7 was committed:~~

8 (1) in, on, or within 1,000 feet of the premises of a  
9 school, the premises of a public or private youth center, or a  
10 playground; or

11 (2) on a school bus.

12 (d) An offense otherwise punishable under Section  
13 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b), or  
14 481.1161(b)(3) [~~7~~ ~~481.120(b)(3), or 481.121(b)(3)] is a felony of  
15 the third degree if it is shown on the trial of the offense that the  
16 offense was committed:~~

17 (1) in, on, or within 1,000 feet of any real property  
18 that is owned, rented, or leased to a school or school board, the  
19 premises of a public or private youth center, or a playground; or

20 (2) on a school bus.

21 (e) An offense otherwise punishable under Section  
22 481.117(b) or [~~7~~] 481.119(a) [~~7~~ ~~481.120(b)(2), or 481.121(b)(2)] is  
23 a state jail felony if it is shown on the trial of the offense that  
24 the offense was committed:~~

25 (1) in, on, or within 1,000 feet of any real property  
26 that is owned, rented, or leased to a school or school board, the  
27 premises of a public or private youth center, or a playground; or



1 (2) on a school bus.

2 (f) An offense otherwise punishable under Section  
3 481.118(b) or [7] 481.119(b) [~~7~~, ~~481.120(b)(1)~~, ~~or~~ ~~481.121(b)(1)~~] is  
4 a Class A misdemeanor if it is shown on the trial of the offense that  
5 the offense was committed:

6 (1) in, on, or within 1,000 feet of any real property  
7 that is owned, rented, or leased to a school or school board, the  
8 premises of a public or private youth center, or a playground; or

9 (2) on a school bus.

10 SECTION 21. Section 481.140(a), Health and Safety Code, is  
11 amended to read as follows:

12 (a) If it is shown at the punishment phase of the trial of an  
13 offense otherwise punishable as a state jail felony, felony of the  
14 third degree, or felony of the second degree under Section 481.112,  
15 481.1121, 481.113, 481.114, [~~481.120~~] or 481.122 that the  
16 defendant used or attempted to use a child younger than 18 years of  
17 age to commit or assist in the commission of the offense, the  
18 punishment is increased by one degree, unless the defendant used or  
19 threatened to use force against the child or another to gain the  
20 child's assistance, in which event the punishment for the offense  
21 is a felony of the first degree.

22 SECTION 22. Section 31.0031(d), Human Resources Code, as  
23 amended by S.B. 219, Acts of the 84th Legislature, Regular Session,  
24 2015, is amended to read as follows:

25 (d) The responsibility agreement shall require that:

26 (1) the parent of a dependent child cooperate with the  
27 commission and the Title IV-D agency if necessary to establish the

1 paternity of the dependent child and to establish or enforce child  
2 support;

3 (2) if adequate and accessible providers of the  
4 services are available in the geographic area and subject to the  
5 availability of funds, each dependent child, as appropriate,  
6 complete early and periodic screening, diagnosis, and treatment  
7 checkups on schedule and receive the immunization series prescribed  
8 by Section 161.004, Health and Safety Code, unless the child is  
9 exempt under that section;

10 (3) each adult recipient, or teen parent recipient who  
11 has completed the requirements regarding school attendance in  
12 Subdivision (6), not voluntarily terminate paid employment of at  
13 least 30 hours each week without good cause in accordance with rules  
14 adopted by the executive commissioner;

15 (4) each adult recipient for whom a needs assessment  
16 is conducted participate in an activity to enable that person to  
17 become self-sufficient by:

18 (A) continuing the person's education or  
19 becoming literate;

20 (B) entering a job placement or employment skills  
21 training program;

22 (C) serving as a volunteer in the person's  
23 community; or

24 (D) serving in a community work program or other  
25 work program approved by the commission;

26 (5) each caretaker relative or parent receiving  
27 assistance not use, sell, or possess [~~marihuaana~~] a controlled

1 substance in violation of Chapter 481, Health and Safety Code, or  
2 abuse alcohol;

3 (6) each dependent child younger than 18 years of age  
4 or teen parent younger than 19 years of age attend school regularly,  
5 unless the child has a high school diploma or high school  
6 equivalency certificate or is specifically exempted from school  
7 attendance under Section 25.086, Education Code;

8 (7) each recipient comply with commission rules  
9 regarding proof of school attendance; and

10 (8) each recipient attend appropriate parenting  
11 skills training classes, as determined by the needs assessment.

12 SECTION 23. Section 1355.006, Insurance Code, is amended to  
13 read as follows:

14 Sec. 1355.006. COVERAGE FOR CERTAIN CONDITIONS RELATED TO  
15 CONTROLLED SUBSTANCE [~~OR MARIHUANA~~] NOT REQUIRED. (a) In this  
16 section, "controlled substance" has [~~and "marihuana" have~~] the  
17 meaning [~~meanings~~] assigned by Section 481.002, Health and Safety  
18 Code.

19 (b) This subchapter does not require a group health benefit  
20 plan to provide coverage for the treatment of:

21 (1) addiction to a controlled substance [~~or marihuana~~]  
22 that is used in violation of law; or

23 (2) mental illness that results from the use of a  
24 controlled substance [~~or marihuana~~] in violation of law.

25 SECTION 24. Section 71.023(a), Penal Code, is amended to  
26 read as follows:

27 (a) A person commits an offense if the person, as part of the

1 identifiable leadership of a criminal street gang, knowingly  
2 finances, directs, or supervises the commission of, or a conspiracy  
3 to commit, one or more of the following offenses by members of a  
4 criminal street gang:

5 (1) a felony offense that is listed in Section  
6 3g(a)(1), Article 42.12, Code of Criminal Procedure;

7 (2) a felony offense for which it is shown that a  
8 deadly weapon, as defined by Section 1.07, was used or exhibited  
9 during the commission of the offense or during immediate flight  
10 from the commission of the offense; or

11 (3) an offense that is punishable under Section  
12 481.112(e), 481.112(f), 481.1121(b)(4), or 481.115(f), [~~or~~  
13 ~~481.120(b)(6)~~], Health and Safety Code.

14 SECTION 25. Sections 159.001(3) and (7), Tax Code, are  
15 amended to read as follows:

16 (3) "Dealer" means a person who in violation of the law  
17 of this state imports into this state or manufactures, produces,  
18 acquires, or possesses in this state:

19 (A) seven grams or more of a taxable substance  
20 consisting of or containing a controlled substance, counterfeit  
21 substance, or simulated controlled substance; or

22 (B) fifty dosage units or more of a taxable  
23 substance not commonly sold by weight, consisting of or containing  
24 a controlled substance, counterfeit substance, or simulated  
25 controlled substance [~~, or~~

26 [~~(C) more than four ounces of a taxable substance~~  
27 ~~consisting of or containing marihuana]~~.

1           (7) "Taxable substance" means a controlled substance,  
2 a counterfeit substance, or a simulated controlled substance, [~~or~~  
3 ~~marihuana,~~] or a mixture of any materials that contains a  
4 controlled substance, counterfeit substance, or simulated  
5 controlled substance [~~, or marihuana~~].

6           SECTION 26. Section 159.004, Tax Code, is amended to read as  
7 follows:

8           Sec. 159.004. NO DEFENSE OR IMMUNITY. Nothing in this  
9 chapter provides a defense or affirmative defense to, exception to,  
10 or immunity from prosecution under the penal laws of this state  
11 relating to controlled substances, counterfeit substances, or  
12 simulated controlled substances [~~, or marihuana~~].

13           SECTION 27. Section 159.101(b), Tax Code, is amended to  
14 read as follows:

15           (b) The rate of the tax is:

16           (1) \$200 for each gram of a taxable substance  
17 consisting of or containing a controlled substance, counterfeit  
18 substance, or simulated controlled substance; and

19           (2) [~~\$3.50 for each gram of a taxable substance~~  
20 ~~consisting of or containing marihuana; and~~

21           [~~(3)~~] \$2,000 on each 50 dosage units, or portion of 50  
22 dosage units, if the total amount is less than 50 dosage units, of a  
23 controlled substance that is not sold by weight.

24           SECTION 28. (a) An offense under Section 481.120 or  
25 481.121, Health and Safety Code, may not be prosecuted after the  
26 effective date of this Act. If on the effective date of this Act a  
27 criminal action is pending for an offense under one of those

1 sections, the action is dismissed on that date. However, a final  
2 conviction for an offense under one of those sections that exists on  
3 the effective date of this Act is unaffected by this Act.

4 (b) The change in law made by this Act applies to an offense  
5 under Section 481.122, 481.125, or 481.126, Health and Safety Code,  
6 or Section 71.023, Penal Code, committed before, on, or after the  
7 effective date of this Act, except that a final conviction for an  
8 offense that exists on the effective date of this Act is unaffected  
9 by this Act.

10 SECTION 29. This Act takes effect September 1, 2015.